

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1680 of 1995

WITH

MISC. CRIMINAL APPLICATION NO. 2116 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.S. PARIKH

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

VINOD MANUBHAI

Versus

STATE OF GUJARAT

Appearance:

MRS MADHUBEN SHARMA for Petitioner

MR BD DESAI, LD. APP WITH MR MR ANAND, LD.PUBLIC PROSECUTOR
for respondents.

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 24/06/96

ORAL JUDGEMENT

The prayer in the main matter, namely Special Criminal Application is to pass appropriate order against the respondents directing them to release the petitioner forthwith while declaring his detention beyond 27/11/1995 as illegal and to award compensation for over detention. The prayer in Misc. Criminal Application is for immediate release of the petitioner and for deciding the aforesaid

main matter at an earlier point of time.

In the main matter Rule was issued by order dated 15/2/1996. In the Misc. Criminal Application Rule is hereby issued and service of rule waived by Mr. B.D.Desai, Ld. A.P.P. appearing with Mr. M.R.Anand, Ld. P.P. for the State.

Both the aforesaid matters are being clubbed together for this common decision.

Heard the learned advocate for the petitioner and the learned A.P.P. for the respondents. It is not in dispute that the petitioner came to be convicted and sentenced for life for the offence punishable u/S. 302 of the I.P.C. as per the judgment and order dated 12/2/1981 rendered by the learned Additional Sessions Judge, Ahmedabad. It is the case of the petitioner that he completed 14 years of the sentence as required u/S. 433-A of the Code of Criminal Procedure, hereinafter referred to as 'the Code', on 27/11/1995. However, no order of final relief has been passed in petitioner's favour. The stand of the respondents is that by virtue of the provisions contained in sections 432 and 433 A of the Code, the Government being the appropriate authority is required to consider the case of any person. Under the said provisions. Section 433 A fixed statutory lower limit of imprisonment for life and Government may consider for prisoner u/S. 432 only after the prisoner has undergone 14 years of imprisonment in the jail. Accordingly after the completion of the period as on 27/11/1995 necessary formalities were required to be initiated and undergone pursuant to rule 1446 of the Jail Manual. As per the Government circular I.G. Prisons is required to submit detailed analysis with his recommendation to the State Government and in this case the I.G. Prisons had submitted such proposal alongwith opinion of an appropriate authority i.e. Superintendent of Jail Advisory Committee on 25/9/1995, that is to say around 2 months in advance. The Advisory Committee met in July 1995 for taking the decision in the petitioner's case. Thus, there is no delay on the part of the said authorities. Accordingly the file was put up before the Government on or around 3/11/1995 and the Government had taken decision on 17/12/1995 to review the case of the petitioner after six months.

In the facts and circumstances of the case particularly those which have been brought to the notice of this Court it cannot be said that the petitioner's cause for release has been illegally or unduly delayed.

It is not in dispute that the petitioner has already been released on 22/6/1996. In that view of the matter the prayer with regard to release has become infructuous and in the facts and circumstances of the case, the prayer with regard to compensation cannot be entertained.

Rule is discharged as both the matters have become infructuous as aforesaid and as prayer for compensation cannot be entertained.

* * *